

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DEVON SMITH AND RICHARD
GUZMAN, INDIVIDUALLY AND AS
NEXT OF KIN FOR BABY SMITH,
DECEASED,

Plaintiffs,

v.

GENERAL MOTORS LLC, and
TRW AUTOMOTIVE INC.,

Defendants.

Case No. CIV-21-16-J

NOTICE OF REMOVAL

Defendant General Motors LLC (“GM LLC”) gives notice of the removal of the above-styled cause from the District Court of Oklahoma County to the United States District Court for the Western District of Oklahoma. Removal is warranted under 28 U.S.C. § 1441 because this is a diversity action over which this court has original jurisdiction under 28 U.S.C. 1332, 1441, and 1446.¹ GM LLC also makes a jury demand on all triable issues.

In support of this notice of removal, GM LLC states as follows:

¹ Pursuant to 28 U.S.C. § 1446(a), copies of all the process, pleadings, and orders served are attached hereto.

BACKGROUND AND ALLEGATIONS

1. This personal injury suit commenced on September 29, 2020, with the filing of a Summons and Complaint in the District Court for Oklahoma County, Oklahoma, Case Number CJ-2020-4603. See Ex. 1, Docket Report; Ex. 2, Complaint.

2. The Complaint arises out of a single vehicle accident that occurred in Indianola, Oklahoma on December 21, 2019. Ex. 2, Complaint, ¶¶ 1, 6.

3. The Complaint alleges that GM LLC is liable to Plaintiffs under theories of strict liability and negligence because, Plaintiffs contend, the 2010 Chevrolet Aveo involved in the crash was defective. Id. at ¶¶ 6-8. GM LLC denies Plaintiffs' allegations.

BASIS FOR REMOVAL

4. This Action is removable to this Court under 28 U.S.C. § 1441 because the Court has original jurisdiction under 28 U.S.C. § 1332(a)(3), based on diversity of citizenship and an amount in controversy exceeding \$75,000, exclusive of interest and costs.

5. Complete diversity of citizenship exists because:

a. According to the Complaint, Plaintiffs are citizens of the state of Oklahoma. Id. at ¶ 2.

b. Defendant GM LLC is a Delaware limited liability company with its principal place of business in the state of Michigan. The sole member of GM LLC is General Motors Holdings LLC, a Delaware limited company with its principal place of business in Michigan. The sole

member of General Motors Holdings LLC is General Motors Company, a Delaware corporation with its principal place of business in the State of Michigan. Thus, GM LLC is considered a citizen of Delaware and Michigan for purposes of determining diversity of citizenship.

- c. Defendant ZF Passive Safety Systems US Inc., improperly designated in the Complaint as TRW Automotive Inc., is a Delaware corporation with its principal place of business in Michigan. Ex. 2, Complaint, ¶ 4. Thus, ZF Passive Safety Systems US Inc. is considered a citizen of Delaware and Michigan for purposes of determining diversity of citizenship. Pursuant to 28 U.S.C. § 1446(b)(2), Defendant ZF Passive Safety Systems US Inc. consents to the removal of this action. See Ex. 3, Consent.

6. Thus, as no defendant is a citizen of the same state as Plaintiffs, there is complete diversity between the parties.

7. According to the Complaint, Plaintiffs seek in excess of \$75,000 in damages. Ex. 2, Complaint, ¶ 50.

8. Therefore, this action is one that may be removed to this Court by GM LLC pursuant to 28 U.S.C. § 1441, as all of the requirements for removal under 28 U.S.C. §§ 1332 and 1441 are satisfied.

VENUE

9. This action is properly removable under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division embracing the place where the state court action is pending.

REMOVAL IS TIMELY

10. GM LLC was served with a copy of the Summons and Complaint on December 22, 2020. Thus, this Notice has been timely filed pursuant to 28 U.S.C. § 1446.

NOTICE TO THE STATE COURT

11. A copy of this Notice of Removal is being served on Plaintiffs and filed with the Clerk of the District Court of Oklahoma County, Oklahoma, as required by 28 U.S.C. § 1446(d).

STATE COURT FILINGS

12. GM LLC attaches copies of all process in this Action. See Ex. 4, Proofs of Service.

13. GM LLC reserves the right to amend or supplement this Notice of Removal.

14. By filing this Notice of Removal, GM LLC does not waive its right to assert any defenses and/or objections to which it is entitled, including but not limited to the right to have the case dismissed.

15. If any question arises as to the propriety of the removal of this action, GM LLC requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

WHEREFORE, Defendant GM LLC prays this Court will consider this Notice of Removal as provided by law governing the removal of cases to this Court; this Court will make the proper orders to achieve the removal of this case from the District Court of Oklahoma County, Oklahoma; and this Court will make such other orders as may be appropriate to affect the preparation and filing of a true record in this case of all proceedings that may have been served in said District Court.

s/ Linda G. Kaufmann

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**ATTORNEYS FOR DEFENDANT
GENERAL MOTORS LLC**

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2021, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrant:

Richard L. Denney
Lydia JoAnn Barrett
Jason E. Robinson
DENNEY & BARRETT, P.C.
rdenney@dennbarr.com
lbarrett@dennbarr.com
jrobinson@dennbarr.com

ATTORNEYS FOR PLAINTIFFS

I also hereby certify that on the same date, a true and correct copy of the foregoing was mailed, postage prepaid, to the following:

TRW Automotive, Inc.
c/o The Corporation Company, Registered Agent
735 1st National Building
Oklahoma City, Oklahoma 7202-7412

s/ Linda G. Kaufmann